

Government of the District of Columbia
Office of the Chief Financial Officer



Jeff DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeff DeWitt
Chief Financial Officer

DATE: March 27, 2014

SUBJECT: Fiscal Impact Statement – Sexual Assault Victims’ Rights Amendment Act of 2014

REFERENCE: Bill 20-417, Draft Committee Print as shared with the Office of Revenue Analysis on March 25, 2014

Conclusion

Funds are sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. The bill will cost \$18,000 in FY 2014 and \$551,000 over the four year financial plan period.

Background

In the District if a victim reports a sexual assault to the police or seeks treatment at the Washington Hospital Center for such an assault, the victim is immediately connected with an advocate and a nurse specialist through the DC Sexual Assault Nurse Examiner Program (“DC SANE program”).¹ The nurse specialist conducts forensic examinations and collects biological specimens for toxicology tests.² The forensic examination kits are sent to the Department of Forensic Sciences (DFS) and biological specimens are sent to the Office of the Chief Medical Examiner (OCME) if the victim chooses to pursue the case with law enforcement. If the victim declines to pursue the case with law enforcement, the DC SANE program will maintain the forensic examination kits.³ If the victim later decides to pursue the case, then the kit will be sent to DFS.

The bill has six main components which expand upon existing or create new protections and processes for sexual assault victims and the handling and monitoring of sexual assault investigations.

¹ Currently, advocates are members of the Network for Victim Recovery of DC and nurses are members of the DC Forensic Nurse Examiners – two District not-for-profit organizations.

² Toxicology screens are performed as needed.

³ If a toxicology screen was done, the biological specimens will be sent to OCME.

Component I – Victim's Rights

The bill expands the opportunities for a victim to have a victim's advocate present throughout examinations and the law enforcement process⁴ even if that presence is initially declined. Following the testing of biological specimens and forensic kits, the victim has the right to request and the Metropolitan Police Department (MPD) has the obligation to provide the results of those tests as long as the identity of DNA matches is not provided for an ongoing investigation. MPD must also attempt to notify the victim before communicating with a potential suspect.

The bill also requires that communications with a victim's advocate are confidential (with a few exceptions⁵). It also includes sexual assault victims' advocates to the list of professionals who cannot reveal information in court without receiving their client's consent.⁶ Additionally, anyone to whom information is disclosed through the limited exceptions or through the presence of an interpreter is bound by the same confidentiality requirements.

Component II – Sexual Assault Forensic Examination Kits and Toxicology Tests

The bill requires MPD to deliver any specimens or kits to OCME and DFS respectively within seven days of a report being filed by the victim. Those specimens and kits must be processed by the receiving agencies within ninety days of their receipt. If, as of the effective date of the bill, any forensic kits are in storage with MPD, then MPD must work with the independent consultant authorized in Title III to audit those kits within 120 days. Additionally, the bill ensures that no victims are billed for the cost of the forensic kits or associated services.

Component III – Independent Expert Consultant

The bill requires the Office of Victim Services (OVS) to hire an independent consultant for one to two years to study and recommend changes as it relates to MPD's processing of sexual assault cases. While OVS will hire the consultant and have final approval, the Office of Police Complaints will select the consultant from a group of candidates provided by OVS. The consultant has five main responsibilities:

1. Ensure MPD has a victim-centered approach to its sexual assault policies and meets best practices;
2. Ensure MPD training includes best practices, that officers comprehend the training materials, and that officers focused on sexual assault cases receive specialized training;
3. Review MPD files and records, including case files, surveys, and complaint records;
4. Conduct interviews with nurses, advocates, and MPD personnel to evaluate the processing of sexual assault cases; and
5. Protect the confidentiality of all MPD information.

⁴ This includes initial interviews at the hospital and any subsequent interviews with law enforcement as it relates to the sexual assault case.

⁵ Exceptions are provided for statutory or court requirements, voluntary authorizations by the victim, to other persons involved in the delivery of services to the victim, to law enforcement if the victim is in imminent danger, to compile non-personal statistical information, or information relevant to the defense of a lawsuit filed against the advocate by a victim.

⁶ D.C. Official Code §14-307(a).

The consultant will produce a semi-annual report that details his or her findings, provides an evaluation of the impact of MPD reforms, a comparison of cases brought to DC SANE and processed by MPD, and a response to the consultant's findings from the Chief of Police.⁷ The consultant will also review the sexual assault case review plan and processes and recommended improvements.

MPD is required to provide the consultant access to files, forms, reports and feedback pertaining to sexual assault cases as well as other cases that had sexual elements, but were not classified as sexual assaults.

Component IV – Metropolitan Police Department Reporting Requirements

The bill requires MPD to annually report to the public non-personal data regarding sexual assault cases and investigations. The data that should be included is the number of sexual assault reported, the outcome of those reports, the number of arrest warrants, the number of cases referred for prosecution and how those referrals were handled, the number of forensic kits and toxicology samples transported by MPD to DFS and OCME, complaints filed against MPD, and any actions taken by MPD in response to recommendations of the Sexual Assault Response Team (SART) Case Review Subcommittee.

Component V – Sexual Assault Response Team

The bill codifies the SART, which currently exists, and expands its efforts to include a case review subcommittee. The SART, which will include twelve public and private members, will be coordinated by OVS, meet six times per year, and will focus on improving the coordination and functioning of all groups and individuals involved in the process of assisting sexual assault victims. One of the main venues for the SART to evaluate processes will be through the case review subcommittee. The subcommittee will work from protocols prescribed in the bill⁸ to review a random sample of investigations involving sexual assaults, specific cases requested by the SART or the independent consultant, and complaints communicated to SART members.

Component VI – Sexual Assault Victim Rights Task Force

Finally, the bill establishes a task force that will focus on understanding nationally recognized best practices and make recommendations regarding an effective mechanism for managing complaints about the handling of sexual assault cases, whether the District needs additional sexual assault victims' advocates, or whether the role of the victims' advocates should be expanded. The task force will begin on October 1, 2014 and deliver its final report by September 30, 2015.

Financial Plan Impact

Funds are sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. The bill will cost \$18,000 in FY 2014 and \$551,000 over the four year financial plan period.

⁷ The Chief of Police will receive a preliminary report 30 days ahead of its final publication and will have those 30 days to review and provide a formal response.

⁸ These include whether certain best practices are being followed in investigations, prosecutorial actions taken, the timeliness of evidence testing, and the application of forensic evidence throughout the investigation and case.

The Honorable Phil Mendelson

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These costs can be absorbed by the Office of Victim Services (OVS) and the other implementing agencies.

OVS will fill an existing position to help manage the duties of overseeing the expert consultant, coordinating the SART, and coordinating the task force. The position will cost OVS \$18,000 in FY 2014 and \$351,000 over the four year financial plan period and these costs will be absorbed by the agency. OVS will also absorb the \$100,000 per year⁹ cost of the expert consultant beginning in FY 2015. OVS also already absorbs the full cost of forensic examination kits.

Additionally, the Department of Forensic Sciences and the Office of the Chief Medical Examiner are currently processing kits and toxicology screens within 90 days and there are no additional costs associated with those provisions. The Metropolitan Police Department can absorb any costs associated with the additional reporting and staff time requirements.

⁹ The consultant will be brought on board for no more than two years.